



AGENDA
Committee on Public Safety
Friday, June 10, 2016 @ 3:30 p.m.
City Council Chambers, 10th Floor, City Hall

Councilmember Carol Wood, Chair
Councilmember Adam Hussain, Vice Chair
Councilmember Kathie Dunbar, Member

1. **Call to Order**
 2. **Roll Call**
 3. **Minutes**
 - May 27, 2016
 4. **Public Comment on Agenda Items**
 5. **Discussion/Action:**
 - A.) UPDATE – Community Police Officers with LPD
 - B.) DISCUSSION – Medical Marihuana Licensing Ordinance
 6. **Other**
 7. **Place on File**
 - Communication from Jamaine Dickens regarding Proposed Medical Marihuana Ordinance/Drive Thru Service Windows
 8. **Adjourn**
-
- Pending – Continued discussion regarding 3200 S. Washington
 - Pending – Discussion regarding lead



MINUTES
Committee on Public Safety
Friday, May 27, 2016 @ 3:30 p.m.
Tenth Floor, City Council Chambers – Lansing City Hall

CALL TO ORDER

The meeting called to order at 3:31 p.m.

ROLL CALL

Councilmember Carol Wood, Chair
Councilmember Adam Hussain, Vice Chair
Councilmember Kathie Dunbar, Member - Absent

OTHERS PRESENT

Courtney Vincent, Council Administrative Assistant
Kristen Simmons, Assistant City Attorney
Lt. Hung Tran, Lansing Police Department
Deb Parrish
Gary Casteel
Cinda Eltzroth
Doug Mains, Dykema Law Firm representing Lansing Medical Cannabis Guild
Elaine Womboldt, Rejuvenating South Lansing
Hilary Vigil
Max Hutchison
Jake Rufenacht
Linda Appling
Elvis Malcolm

Minutes

MOTION BY COUNCILMEMBER HUSSAIN TO APPROVE THE MINUTES OF MAY 12, 2016 AND MAY 13, 2016 AS PRESENTED. MOTION CARRIED 2-0.

Public Comment:

Councilmember Wood asked if anyone present wished to speak on the agenda item Noise Ordinance. No one present wished to comment. Councilmember Wood asked for any attendees who wished to comment on the Medical Marihuana Ordinance to please write their name on the attendance sheet. She stated she would prefer public comment on the Medical Marihuana Licensing and Operations Ordinance after Committee discussion. If anyone could not stay for the meeting they could make their comments now.

Discussion/Action:**DISCUSSION – Noise Ordinance Enforcement**

Councilmember Wood noted the gentleman who had requested information on enforcement of the City of Lansing's Noise Ordinance during the May 23rd City Council meeting was not in attendance today. The gentleman had experienced a great deal of noise on a regular basis from motorcycle and auto traffic along with loud music near his home between the hours of 2:00 a.m. and 5:00 a.m. and was concerned whether the City had a noise ordinance and if it was enforced.

Lt. Tran stated the City had a Noise Ordinance which does address noise that disturbed the peace. Lansing Police Department (LPD) officers can issue citations if they witness a violation and they will address a complaint made regarding noise, but resources were not available for an officer to watch a specific area waiting for a violation to occur. Noise ordinance is a lower propriety call but it will be responded too when resources allow.

Councilmember Wood asked how aggressively LPD enforced the ordinance and whether a sting operation could be conducted. Lt. Tran replied the ordinance was enforced the same as any other City ordinance and explained response time depended on the volume and priority of calls received. Ms. Simmons agreed with Lt. Tran. She noted warmer weather corresponded with an increase in noise complaints and doubted there were adequate resources within LPD to conduct a sting operation due to low staffing levels. Ms. Simmons also stated the City Attorney's Office followed through with prosecution of noise ordinance violations as normal.

DISCUSSION – Medical Marihuana Licensing Ordinance

Councilmember Wood stated the Committee discussed questions provided to the Interim City Attorney at the last meeting and today they would review the second draft of the ordinance line by line. Questions asked during this meeting will be answered by the City Attorney's Office at the next Committee meeting.

Page 1 - The Committee noted inconsistencies in capitalization of section titles on lines 3-14. Councilmember Wood asked whether information regarding federal laws on Medical Marihuana should be kept or researched further considering the possibility marihuana being reclassified as a Schedule 2 substance. Ms. Simmons stated it was in the best interest of the City to keep that language in the ordinance. The terms "dispensaries" and "home cultivation" on line 17 should be changed to "provisioning centers" and "home occupation" respectively for consistency throughout the ordinance. Councilmember Wood mentioned Councilmember Dunbar's suggestion to change "home occupation" to "home cultivation" during the last meeting. Lines 18 and 28 should read "Michigan Medical Marihuana Act" instead of "Michigan Marihuana Act."

Page 2 – A space is required between "(b)" and "Any" on line 5 and between "(c)" and "The" on line 6. Councilmember Hussain asked if there was any further information on the definition of "Provider" on line 12, as the entry appeared to end abruptly. Ms. Simmons said she would confirm the definitions in this section correlated with the MMMA. The Committee agreed with Councilmember Dunbar's suggestion to change "home occupation" to "home cultivation" throughout the ordinance. Ms. Simmons stated she would research the ability to use that particular phrase, and noted it might already be included in a revised draft currently being worked on by the City Attorney's Office. The phrase "primary residence" from line 17 should be changed to "principal residence" for consistency throughout the ordinance. The word "act" should be capitalized in line 23, and the second use of "Michigan medical marihuana act" should be capitalized on line 25. Councilmember Wood asked whether the mention of paraphernalia on line 28 would affect a store dealing exclusively in paraphernalia, requesting the intention of this reference compare to the locations where caregivers either grow or

exchange product. Ms. Simmons agreed and stated the language would be cleaned up. Councilmember Hussain noted line 28 should read “paraphernalia relating to”, not “paraphernalia relations to.”

Page 3 – Councilmember Hussain pointed out the inconsistency regarding the use of “principal residence” in line 6 versus “primary residence.” The word “card” should be capitalized on line 12. The Committee asked why line 23 regarding proof of operation was part of the ordinance when it was stated there would be no grandfathering of current dispensaries. Ms. Simmons replied she did not know why that requirement had been left in, and she did not think it was in the new draft. Councilmember Hussain asked for clarification on the provision in line 26 regarding caregiver licenses. Councilmember Wood explained the facility would have a license to operate that would list the caregivers at the location and caregivers would then obtain a license and would that be charge or free if they were listed on the facility license.

Page 4 – The Committee discussed “principal residence” versus “primary residence” for line 1 and wanted “home occupation” changed to “home cultivation.” Councilmember Hussain asked why the City had opted to require licenses for home cultivation when there were other options such as how the City of Ann Arbor requires registration for home cultivation instead of requiring a license. Ms. Simmons said she did not have an answer and the Committee asked her to research the issue. Councilmember Hussain asked if the statement made in lines 3-4 comported with the MMMA and the Committee requested Ms. Simmons to research the answer. The title “city clerk” should be capitalized on line 15. Councilmember Hussain suggested adding language in the provision from lines 19-21 to help the City Clerk and individuals plan for the influx of annual renewals such as requiring renewal no sooner than 90 days and no later than 30 days prior to expiration. Councilmember Wood suggested asking the City Clerk for his recommendation. The word “act” should be capitalized on line 25. A space should be added between “(f)” and “Each” on line 33.

Page 5 – The word “council” should be capitalized on line 4 and “city council” should be capitalized on line 5. The section reading “against and portion” on line 11 should read “against any portion.” The word “center” should be changed to “centers” on line 21. The additional space between “(8)” and “Specify” should be removed on line 26 for formatting consistency throughout the document. The phrase “Government issued” should be changed to “government-issued” on line 34. Councilmember Hussain asked if testing procedures would be addressed in the ordinance or a labeling requirement added to indicate no product oversight. Councilmember Wood requested Ms. Simmons to provide information on the testing element. Councilmember Hussain asked if language requiring labels to indicate whether or not edible products were made in a licensed kitchen could be added to lines 15-17, which addressed labeling requirements. Councilmember Wood said they would have to ask the City Attorney’s Office for direction because it might be an issue addressed by the Ingham County Health Department. Councilmember Wood asked if the statement required from the provision on line 39 should be notarized at the time of submission. Ms. Simmons said she would confirm whether the required statement would also include an authorization page to run a background check, which would assert that information provided is true. Councilmember Wood asked if background checks would be national or local. Ms. Simmons replied she would need to confirm whether background checks performed by LPD extended nationally.

Page 6 – Councilmember Hussain asked why the ordinances required the city be named as an additional insured party as stated in the provision on lines 5-6. He also asked about the patient education plan mentioned in line 21. Councilmember Wood clarified the language in parenthesis was a note referring to the education plan required in the first ordinance which would have been reviewed, not established, by Council. She was not sure why the City Attorney’s Office had changed it. The Committee requested the language in lines 21-22 be

cleaned up. There should be a space between “(18)” and “Patient” and the word “plan” should be capitalized on line 21. Councilmember Hussain mentioned some residents were requesting additional zoning restrictions such as prohibiting provisioning centers near churches. He asked if additional restrictions could be added or if the MMMA precluded such limitations. Councilmember Wood noted the Interim City Attorney had stated they would risk limiting access to provisioning centers if the zoning requirements were too restrictive. She also explained there had previously been a requirement addressing the minimum space allowed between two provisioning centers, which is not present in the current draft. The Committee asked the City Attorney’s Office to review that section. Councilmember Wood asked for information on why line 30 required the Council to establish a sanitation plan instead of reviewing one provided by the applicant. Councilmember Hussain questioned how the City would guard against litigation should a situation arise where the number of applicants surpasses the maximum allowed number of licensees and all meet every requirement for a license. He noted the City of Ann Arbor created a Medical Marihuana Licensing Board. Councilmember Wood replied the City Attorney’s Office is currently looking into the issue.

Page 7 – The Committee requested consistency regarding the indentation on the second line of each section. Line 3 was indented but lines 5, 7, 9, and others were not. The phrase “Fire Department” on line 2 should be changed to “Lansing Fire Department” and “Police Department” on line 7 should be changed to “Lansing Police Department”. Councilmember Wood noted the fees mentioned in line 20 could not exceed the cost of conducting business, would be set by resolution, and should be available for review by the date of the public hearing for the ordinance. Councilmember Hussain stated he was not looking to make drastic changes to the draft ordinance out of concern it would make the ordinance unenforceable. He also noted many of the patients, dispensary owners, and patient advocates he has spoken with believed the ordinance comports with the MMMA and is enforceable. The Committee requested the City Attorney’s Office reword line 39 out of concern the specification of “video recordings” was too restrictive and excluded advances in visual surveillance technology.

Page 8 – Councilmember Hussain asked Ms. Simmons to address the provision on lines 2-3, which prohibit the display or transfer of Medical Marihuana in an area accessible to the general public. Dispensary owners had indicated to him the measure would restrict their business. Ms. Simmons clarified the provision in the ordinance referred to public or common areas; Medical Marihuana could be on display in the non-public area designated for product transfer. The term “customer” in line 6 should be removed, as exchanges allowed under the MMMA are only allowed between a caregiver and a patient. Ms. Simmons agreed the term “customer” should be removed. A space is needed between “(I)” and “All” on line 18. The second semicolon should be removed at the end of line 22. Spaces need to be added between the subsection letter and the first word of the sentence on lines 23, 24, 26, and 28.

Page 9 – The Committee requested the name of the caregiver should be included as a requirement for the provision on lines 3-4. The word “center” on line 13 should be “centers.” The word “the” should be inserted before “facility” in line 10. Councilmember Wood stated the Committee needed to decide whether or not to specify hours of operation in the ordinance. Councilmember Hussain supported specifying hours of operation if the Interim City Attorney supported the provision and it is enforceable. On the question brought up during the last meeting of prohibiting green crosses, the Committee expressed more concern over the use of a symbol of a marihuana leaf. Councilmember Wood asked Ms. Simmons for additional information on the new draft she had mentioned. Ms. Simmons replied the draft took input from the line-by-line review of the first draft but she did not know when it would be available for review by the Committee.

Councilmember Wood stopped the line-by-line review of the ordinance at line 18 of page 9. The next meeting would continue the review starting at Section 1301.06 – Minimum Operations Standards for Medical Marihuana Home Occupation on line 19.

Public Comment on Agenda Items

Councilmember Wood opened the floor for public comment.

Ms. Parrish expressed concern regarding marketing by dispensaries to those who were not designated patients for a specific caregiver and stressed the need to crack down on Medical Marihuana cards not obtained by a doctor of record.

Mr. Casteel expressed concern regarding the misuse of Medical Marihuana patient cards because the cards lack a photo of the patient. He reported witnessing people passing patient cards to others for the purchase of marihuana at dispensaries. He suggested limiting the number of dispensaries to no more than three or four per ward, and he asked if a petition could be started to get rid of dispensaries in Lansing. Councilmember Wood stated the City was working diligently on an ordinance based on and comporting with current State law. Mr. Casteel asked if the City Council could require stricter monitoring of dispensaries. Councilmember Wood replied the licensing ordinance, once completed, would address those issues.

Ms. Eltzroth supported prohibiting provisioning centers near parks and churches and asked the Committee to consider adding those to the zoning requirements. She also supported uniform hours of operation for both provisioning centers and individual caregivers, suggesting the 9:00 a.m. to 5:00 p.m. hours mentioned in the ordinance. Councilmember Wood clarified that those hours pertained to inspections. Ms. Eltzroth asked the Committee to consider the impact to the quality of life for residents of the city because of the effects of the large number of Medical Marihuana establishments.

Mr. Mains stated infused products made with marihuana extract were illegal under the MMMA, making most edible products illegal under state law. He noted the State of Michigan had passed a law addressing what will happen should the federal government change marihuana to a Schedule 2 drug. He stated the Lansing Medical Cannabis Guild supported the creation of an effective and enforceable ordinance, but was concerned about portions of the draft ordinance that may conflict with the MMMA.

Ms. Womboldt expressed support for prohibiting the cultivation of marihuana in neighborhoods and for limiting the number of provisioning centers allowed in the city.

Ms. Appling expressed concern for the unintended consequences that could arise from the ordinance such as increasing the cost of the product and the potential of the restrictions creating a black market for marihuana within the city. She also expressed concern over the potential increase in arrests for petty crimes. She suggested the ordinance should be minimal in terms of nature and scope and should not cause more people to be arrested or go to jail.

Mr. Malcolm asked if the section on page 2, line 28 would affect stores exclusively selling marihuana paraphernalia and have been in business for a number of years. Councilmember Wood stated the provision was not meant to affect those businesses and the language would be clarified. Mr. Malcolm asked where caregivers were supposed to purchase additional product from for their patients if they were prohibited from transferring product in a residence. Councilmember Wood stated recent case law indicated the exchange can only be between a caregiver and a patient, not between caregivers as per the MMMA. Mr. Malcolm asked if page 5, lines 18-24 described a co-op and if they would now be legal. Councilmember Wood replied

it could pertain to a co-op and then requested Ms. Simmons research the question. Mr. Malcolm asked the Committee not to discriminate against the marihuana industry and to impose the same sanctions as they would other businesses. He mentioned the Supreme Court stated the smell of marihuana cannot be deemed offensive to the level described in the draft ordinance. Councilmember Wood noted the provisions regarding odor in the draft ordinance applied to a number of business licenses. Mr. Malcolm asked about limitations on the number of caregivers allowed at a location, the amount of marihuana they would be allowed to possess at that location, and if they would have the right to carry overage. Councilmember Wood stated those issues were currently being researched.

Council Member Wood stated the Committee would continue to move forward with the draft ordinance even if there is movement from State legislature on the bill that has been stuck in committee. The next meeting of the Committee on Public Safety is scheduled for Friday, June 10, 2016, at 3:30 p.m. and will continue the discussion of the second draft of the Medical Marihuana Ordinance. Councilmember Wood invited anyone with questions or concerns to email her so they can be passed to the City Attorney's Office prior to the next meeting.

Other:

Councilmember Wood provided an update on South Washington Park Apartments, 3200 S. Washington Ave. A meeting took place on Wednesday which included the Mayor, four City Council members, the Chair of the LHC Board of Commissioners, and representatives from HUD. The representatives from LHC informed the City the security doors had been fixed and they were considering an ID entry system for the building. It was noted a Community Police Officer would begin working in the neighborhood encompassing the building after May 28th for a three year assignment. State Police had walked through the building and provided recommendations for placement of security cameras to be installed throughout the building. Evictions are being conducted; cleaning staff has been hired to work over weekends to prevent a buildup of trash and debris. The LHC is considering applying for the RAD grant for potential funding for renovations. Another possibility instead of renovations would be tearing down the building and reformatting it. Councilmember Wood noted the Committee had originally intended to have an on-site meeting at South Washington Park, but the meeting was canceled. LHC and HUD have asked to conduct a meeting at the property and inviting the City Council to attend with the goal of looking at solutions and moving forward, HUD representatives do not the rehashing problems already brought to their attention. Councilmember Wood added LHC also wanted to try to reengage the Residents' Council and have asked for help with this from Rejuvenate South Lansing and the Old Everett Neighborhood Association. She stated the update on 3200 S. Washington would remain as pending on the agenda until a meeting has been scheduled and the date announced.

Councilmember Hussain asked if any discussion had occurred during the meeting regarding changes in leadership within LHC. Councilmember Wood stated there were no changes at LHC and the former manager at South Washington Park had been moved to a different facility. She noted that Ed Forrest now working for LHC, a former LPD Captain was also spending over 50% of his time at the building. Councilmember Hussain expressed concern over the relocating of the former property manager and then asked if there was a timeline for the meeting. Councilmember Wood stated no timeline has been provided but HUD was scheduled to meet next Tuesday with LHC regarding the recovery plan. The City of Lansing was required to sign off on the recovery agreement because the City appoints the board for the LHC, but HUD stated that the City had no liability as part of the recovery plan only LHC. Councilmember Hussain expressed concern the issues reported by residents of the building were not being addressed. Councilmember Wood replied HUD had made it clear they understood there were issues with the building, and she hoped they could encourage HUD to

allow time for the validation of issues raised by residents in order to rebuild trust between the residents and the system.

Councilmember Wood then addressed the pending update on Community Police Officers. Sgt. Matt Kreft with LPD was now in charge of the Community Police Officers and an invitation would be extended to him to attend the next Committee meeting for an update on the program.

Place on File

No action was taken on the following item to be placed on file:

- Communication from Jamaine Dickens regarding Proposed Medical Marihuana Ordinance/Drive Thru Service Windows

ADJOURN

The meeting was adjourned at 5:19 p.m.

Submitted by,

Courtney Vincent, Administrative Assistant

Lansing City Council

Approved: _____



Community Police Officers

Name	Location	Phone	Email
Sgt. Matthew Kreft		517-483-4613	matthew.kreft@lansingmi.gov
Ofc. Lance Leiter	Baker/Donora Neighborhood	517-256-9013	lance.leiter@lansingmi.gov
Ofc. Jon LaCross	Moore's River Neighborhood	517-230-6002	jonathan.lacross@lansingmi.gov
Ofc. Trevor Arnold	Washington Ave. Corridor	517-648-5633	trevor.arnold@lansingmi.gov
Ofc. Eric Boswell	Northtown Neighborhood	x2695*	eric.boswell@lansingmi.gov
Ofc. Sarah Willson	Genesee Neighborhood	x2644*	sarah.willson@lansingmi.gov
Ofc. Matthew Salmon	Downtown Stadium Dist.	517-256-9013	matthew.salmon@lansingmi.gov
Ofc. Garrett Hamilton	Kalamazoo St. Corridor	517-230-6002	garrett.hamilton@lansingmi.gov

*To call: Dial 517-483-6868 then enter the 4-digit extension. If officer is away from the desk, please leave a voicemail.

Always call 9-1-1 during an emergency

CITY CODE OF ORDINANCES CHAPTER 1301.

MEDICAL MARIHUANA LICENSING AND OPERATIONS

1301.01 Legislative Intent

1301.02 Definitions

1301.03 Licensure requirements

1301.04 Applications for license

1301.05 Minimum Operational Standards of Medical Marihuana Facilities and Dispensaries

1301.06 Minimum operational standards of medical marihuana home occupations

1301.07 Location of Medical Marihuana Facilities and Dispensaries

1301.08 Locations of Medical Marihuana Home Occupations

1301.09 Denial and Revocation

1301.10 Penalties and discipline

1301.11 No vested Rights

1301.12 Severability

1301.01 -LEGISLATIVE INTENT

The City intends to license and regulate medical marihuana facilities, dispensaries and home cultivation to the extent they are permitted under the Michigan Marihuana Act. The City does not intend that licensing and regulation under this chapter be construed as a finding that such operations are legal under state or federal law. Although some specific uses of marihuana are allowed by the Michigan Marihuana Act, marihuana continues to be classified as a Schedule 1 controlled substance under federal law, making it unlawful under federal law to manufacture, distribute, dispense or provide. By requiring a license and compliance with requirements set forth in this chapter, the City intends to protect to the extent possible, the public health, safety and welfare of the residents of and visitors to the City, including registered qualifying patients and their caregivers, especially from harm that might result from those who may choose to conduct medical marihuana operations in ways that are inconsistent with the mandates of this chapter.

This chapter permits activities as described in the Michigan Marihuana Act. Nothing in this chapter shall be construed as allowing persons to engage in conduct that endangers others or to allow the use, cultivation, or growth of medical marihuana not in strict accordance with what is authorized by the Act.

1 **1301.02 – DEFINITIONS**

2 For the purposes of this chapter:

3 (a) Any term defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq., shall have the
4 definition given in the Michigan Medical Marihuana Act.

5 (b) Any term defined by 21 USC 860(e) shall have the definition given by 21 USC 860(e).

6 (c) The following terms shall have the definitions given:

7 “Department” means the State of Michigan Department of Community Health.

8 “Provisioning Center” means a location where one or more primary caregivers store and distribute
9 medical marihuana out of a building or structure.

10 “Provide/Provision” means the physical transfer of any amount of marihuana in any form from a primary
11 caregiver to a qualifying patient.

12 “Provider” means a primary caregiver who engages in any one or more acts of providing.

13 “Facility” means a commercial business having a separate or independent postal address where medical
14 marihuana is cultivated and also may be provided.

15 “Home Occupation” means the residential cultivation of Medical Marihuana by a Qualifying Patient as
16 defined by the Act, in compliance with the general rules of the Department of Licensing and Regulatory
17 Affairs, within a single family dwelling that is the Registered Qualifying Patient’s primary residence and
18 in which the cultivation is in conformity with the restrictions and regulations contained in the Act, this
19 Chapter and any State regulations developed by the Michigan Department of Licensing and Regulatory
20 Affairs (LARA). Medical Marihuana Home Cultivation is prohibited in any multi-family dwelling.

21 “Licensee” means a person holding a city issued license related to medical marihuana operations.

22 “Medical Marihuana” means any marihuana intended for medical use that meets all requirements for
23 medical marihuana under the act and excludes any form of marihuana inconsistent with the definition
24 of usable marihuana under the Act; 1976 PA 368, MCL 333.7106.

25 “Michigan Medical Marihuana Act” or “Act” means the Michigan medical marihuana act, 2008 Initiated
26 Law, MCL 333.26421 to 333.26430.

27 “Medical use of Marihuana “ means the acquisition, possession, cultivation, manufacture, extraction,
28 use, internal possession, delivery, transfer, or transportation of marihuana, or paraphernalia relations
29 to the administration of marihuana to treat or alleviate a registered qualifying patient’s debilitating
30 medical condition.

31 .

1 "Primary caregiver" or "caregiver" means a person as defined under MCL 333.26423(g) of the Act, who
2 had been issued and possesses a Registry Identification Card under the Act and provides medical
3 marihuana to a qualifying patient other than themselves. The cultivation of marihuana by a caregiver
4 and the provision of caregiver services relating to marihuana use shall be permitted in accordance with
5 the Act.

6 "Principal residence" means the place where the person resides more than half of the calendar year.

7 "Qualifying patient" or "patient" means a person who has been diagnosed by a physician as having a
8 debilitating medical condition and who has been issued and possesses a Registry Identification Card
9 under the Act.

10 "Restricted/Limited Access Area" means, a building, room or other area under the control of the
11 licensee with access limited to qualifying patients or primary caregivers.

12 "Registry Identification card" means the document defined by the Michigan Medical Marihuana Act.
13

14 **1301.03 -LICENSURE REQUIREMENTS.**

15 (a) The cultivation of marihuana by a caregiver or any other person permitted under the Act, and the
16 provision of caregiver services relating to medical marihuana use, shall be permitted in accordance with
17 the Act. No cultivation, provisioning , or other assistance to a patient shall be lawful at a location unless
18 such location for such cultivation, provisioning, and assistance shall have been licensed under this
19 Chapter.

20 (1) A facility or provisioning center in operation on the effective date of this ordinance may
21 continue operations without a license only if the operator applies for a license within thirty (30)
22 days of the effective date of this ordinance and if no zoning, permit, or license applications or
23 approvals have already been denied. Proof of operation before implementation of this
24 ordinance shall be provided at the time of applying.
25

26 (b) Each caregiver operating at a facility or provisioning center shall obtain a separate license prior to
27 operating.

28 (c) The following locations shall require licensure:

29 (1) A facility used for the cultivation of marihuana by caregivers or patients permitted under the
30 Act;

31 (2) A provisioning center or facility used for distribution;

32 (3) Any facility used to provide any other assistance to patients by caregivers permitted under
33 the Act relating to medical marihuana;

(4) The principal residence where the residence is being utilized as a home occupation..

(d) Operating as a primary caregiver, whereas medical marijuana is provided by the primary caregiver to another, is prohibited in a residence.

(e) Any portion of the structure where energy usage exceeds typical residential use, such as a grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subjected to inspection and approval by the fire department to insure compliance with the city's adopted International Fire Code.

(f) All premises required to be licensed shall be open for inspection upon request by the city's appointed inspectors, building officials, fire department, and/or law enforcement officials for compliance with all applicable laws and rules during normal business hours of 9:00 a.m. until 5:00 p.m. or at such times as anyone is present on the premises.

1301.04 -APPLICATION FOR LICENSE.

(a) An application for an annual license or renewal of a previously issued license under this section shall be submitted to the city clerk. A license shall be issued or renewed upon payment of the required fee, submission of a completed application in compliance with the provisions of this chapter, and compliance with all provisions and requirements of this chapter. There will be no license fee for home occupation operations.

(b) An application renewal shall be submitted annually. Applications to renew a license under this chapter shall be filed at least 30 days prior to the date of expiration. Such renewal shall be accompanied by the annual fee.

(c) An application shall include the names of all caregivers operating in the same facility/provisioning center or on the same premises and a copy of the caregiver's state issued registry identification card.

(d) Pursuant to the act, primary caregivers shall not have any felony convictions within the past ten years and shall not have ever been convicted of a felony involving illegal drugs or a felony that is an assaultive crime. If a criminal background check reveals any such felony conviction, no license shall be issued and any existing license shall be revoked.

(e) No license shall be issued and/or an existing license may be revoked if applicant or business owes to the City any outstanding back taxes, fines, fees or liens.

(f) Each facility or provisioning center license application required by this chapter shall include the following:

(1) The marijuana facility or provisioning center history of the applicant; whether such person has had a business license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.

- (2) The address of the precise premises at which there shall be possession, cultivation, distribution or other assistance in the use of medical marihuana.
- (3) If applicable, the initial application fee or renewal fee as established by council; thereafter they shall be established by annual resolution of the city council.
- (4) A description of the products and services to be provided by the facility/provisioning center, including retail sales of any item.
- (5) A plan for the disposal of any medical marihuana in any form that has not been provided pursuant to the Act of this chapter. This plan shall protect against and portion being possessed or ingested by a person or animal. Disposal by burning or introduction into the sewage system is prohibited.
- (6) Procedures for testing contaminants, including mold and labeling of products that include marihuana in any form.
- (7) Describe the enclosed, locked facility in which any and all cultivation of medical marihuana is proposed to occur, or where medical marihuana is stored, with such description including: location of building, precise measurements in feet of the floor dimensions and heights; the security plan for the facility; and in the case with facilities or provisioning center with more than one primary caregiver, a declaration that each caregiver will only have access to the medical marihuana that is identified to that caregiver and to the individual qualified patients associated with the caregiver in accordance with the Act.
- (8) Specify the number of patients to be assisted by each caregiver, separating the number of patients for whom medical marihuana is proposed to be cultivated from the number of patients to be otherwise assisted on the premises.
- (9) If the applicant is an individual, the applicant's name, date of birth, physical address, copy of photo identification, email address, and one or more phone numbers, including emergency contact information;
- (10) If the applicant is not an individual, the names, dates of birth, physical addresses, copy of Government issued photo identification, email addresses, and one or more phone numbers of each stakeholder of the applicant, including designation of the highest ranking stakeholder as an emergency contact person and contact information for the emergency contact person. In addition, the articles of incorporation, assumed name registration documents, Internal Revenue Service SS-4 EIN confirmation letter, and the operating agreement of the applicant;
- (11) A statement with respect to each person named on the application that he or she has not been convicted of or pled guilty to a felony involving controlled substances or assaultive crimes preceding the date of application and a signed release authorizing the Lansing Police Department to perform a criminal background check to ascertain whether the applicant named on the application meets these requirements.

(12) One of the following: (a) proof of ownership of the entire premises where the Medical Marihuana operations will be conducted; or (b) written consent from the property owner for use of the premises in a manner requiring licensure under this chapter along with a copy of the lease for the premises;

(13) Proof of an insurance policy covering the facility or provisioning center and naming the city as an additional insured party, available for the payment of any damages arising out of an act or omission of the applicant or its stakeholders, agents, employees, or subcontractors, in the amount of (a) at least one million dollars for property damage; (b) at least one million dollars for injury to one person; and (c) at least two million dollars for injury to two or more persons resulting from the same occurrence. The insurance policy underwriter must have a minimum A.M. Best company insurance ranking of B+, consistent with state law;

(14) A description of the security plan for the facility or provisioning center, including but not limited to, any lighting, alarms, barriers, recording/monitoring devices, and/or security guard arrangements proposed for the premises. The City may establish minimum security measures;

(15) An affidavit that neither the applicant nor any stakeholder of the applicant is in default to the city;

(16) An affidavit that only primary caregivers will be involved in the transfer of marihuana to qualifying patients and only in the manner allowed by the Act;

(17) Any proposed text or graphical materials to be shown on the exterior of the proposed facility of provisioning center;

(18) Patient Education plan; (requirements to be established by council; carryover from prior Lansing ordinance.)

(19) Recordkeeping and inventory procedures that describe how the acquisition and provision of medical marihuana will be tracked. This shall include on-site cultivation and processing;

(20) A location area map of the facility or provisioning center that identifies the relative locations and the distances to the facility of the real property comprising a public or private elementary, vocational or secondary school; a child care organization required by the child care organizations act, PA 1 16 of 1973, to be licensed or registered by the Michigan Department of Human Services.

(21) A facility or provisioning center sanitation Plan; (requirements to be established by council)

(g) Upon receipt of a completed facility or provisioning center application meeting the requirements of this Chapter the city clerk will confirm that the number of existing licenses does not exceed the maximum number established by resolution pursuant to subsection ____ .

(h) No application shall be approved unless:

- (1) The Fire Department has inspected the proposed location for compliance with all laws for which it is charged with enforcement;
- (2) The Building Safety Office has inspected the proposed location for compliance with all laws for which it is charged with enforcement ;
- (3) The applicant and each stakeholder of the applicant have passed a background check conducted by the Police Department;
- (4) The Zoning Administrator has confirmed that the proposed location complies with the Zoning Code; and
- (5) The City Treasurer has confirmed that the applicant and each stakeholder of the applicant are not in default to the City.

(i) If final approval is obtained, all use of the property shall be in accordance with the license application, including all information and specifications submitted by the applicant in the application.

(j) Licensees shall report any other change in the information required by this section to the City Clerk within ten days of the change.

(k) Any applicable application or license fees will be set by Council.

1301.05—MINIMUM OPERATIONAL STANDARDS FOR FACILITIES AND PROVISIONING CENTERS

(a) Nothing in this chapter, or any companion regulatory provisions adopted in any other provision of the Code, is intended to grant, nor shall it be construed as granting immunity from criminal prosecution for:

(1) Cultivation, sale, consumption, use, provision, manufacture or possession of marihuana in any form not in compliance with the Act or,

(2) Any criminal prosecution under federal laws including seizure of property under the Federal Controlled Substances Act. 21 U.S.C. Sec. 801 *et seq.*

(b) Whether a facility or provisioning center, there shall not be more than 12 Medical Marihuana plants being cultivated by a patient for themselves or in the case of a caregiver, 12 per patient, in strict accordance with the Act.

(c) Consumption of Medical Marihuana shall be prohibited on the premises of a facility or provisioning center, and a sign shall be posted on the premises indicating that consumption is prohibited on the premises.

(d) The facility or provisioning center shall continuously monitor the entire premises on which they are operated with surveillance systems that include security cameras. The video recordings shall be maintained in a secure, off-site location for a period of not less than 14 days.

- (e) Public or common areas of a facility or provisioning center must be separated from restricted or non-public areas by a permanent barrier. No Medical Marihuana is permitted to be stored, displayed, or transferred in an area accessible to the general public.
- (f) All Medical Marihuana storage areas within a facility or provisioning center must be separated from any customer/patient areas by a permanent barrier. No Medical Marihuana is permitted to be stored in an area accessible by the general public or registered customers/patients.
- (g) Any usable Medical Marihuana remaining on the premises of a facility or provisioning center while it is not in operation shall be secured in a safe permanently affixed to the premises.
- (h) No facility or provisioning center shall have a drive-through window on the premises.
- (i) No facility or provisioning center shall be operated in a manner creating noise, dust, vibration, glare, fumes, or odors detectable to normal senses beyond the boundaries of the property on which the facility or provisioning center is operated.
- (j) The license required by this chapter shall be prominently displayed on the premises of the facility or provisioning center.
- (k) Disposal of Medical Marihuana shall be accomplished in a manner that prevents its acquisition by any person who may not lawfully possess it and otherwise in conformance with state law and this chapter.
- (l) All Medical Marihuana delivered to a patient shall be packaged and labeled as provided in this chapter. The label shall include:
- (1) A unique alphanumeric identifier for the person to whom it is being delivered;
 - (2) A unique alphanumeric identifier for the registered primary caregiver who is delivering the medical marihuana;;
 - (3) That the package contains Medical Marihuana;
 - (4) The date of delivery, weight, type of Medical Marihuana, dollar amount or other consideration being exchanged in the transaction;
 - (5) A certification that all Medical Marihuana in any form contained in the package was cultivated, manufactured and packaged in conformance with state law;
 - (6) The warning that:
This product is manufactured without any regulatory oversight for health, safety or efficacy. There may be health risks associated with the ingestion or use of this product. Do not drive or operate heavy machinery while using this product. Keep this product out of reach of children. This product may not be used in any way that does not comply with the Michigan Medical

1 **Marihuana Act or by any person who does not possess a valid medical marihuana patient**
2 **registration card.**

3 (7)The name, address, email address, and telephone number of the facility or provisioning
4 center that a patient can contact with any questions regarding the product.

5 (m) All registered patients must present both their Michigan registry identification card and Michigan
6 State ID prior to entering restricted/limited areas or non-public areas of the facility or provisioning
7 center.

8 (n) Each facility or provisioning center shall be open for inspection during the stated hours of operation
9 and as such other times as anyone is present on the premises.

10 (o) Alcoholic beverages shall not be sold, consumed or distributed on the premises of facility or
11 provisioning center.

12 (p) No facility or provisioning center shall allow loitering inside or outside its premises.

13 (q) Medical Marihuana facilities and provisioning center shall be closed for business, and no sale or
14 other distribution of marihuana in any form shall occur upon the premises or be delivered from the
15 premises, between the hours of ____ and ____.

16 (r) The use of the symbol or image of a marihuana leaf in any exterior signage at any caregiver operated
17 facility or provisioning center is strictly prohibited. Furthermore, it shall be prohibited to display any
18 signs that are inconsistent with local laws or regulations or State law.

19 **1301.06 –MIMINUM OPERATIONS STANDARDS FOR MEDICAL MARIHUANA HOME OCCUPATION.**

20 (a) All use of marihuana on the premises shall comply with the Act at all times. In addition, the following
21 minimum standards for medical marihuana home occupations shall apply:

22 (1) The maximum area for home occupations shall be calculated as 25 percent of the useable
23 residential floor area of a dwelling unit or 300 feet whichever is less;

24 (2) A qualified patient must be an occupant of the home;

25 (3) The use of the dwelling unit for medical marihuana cultivation shall be clearly incidental and
26 subordinate to its use for residential purposes. The residence shall maintain kitchen, bathrooms,
27 living rooms, dining rooms, hallways, and primary bedrooms for their intended use and not for
28 cultivation of medical marihuana;

29 (4) All medical marihuana that is not being consumed at the time shall be contained within an
30 enclosed, locked facility inside a primary or accessory building;

31 (5) All necessary building, electrical, plumbing and mechanical permits shall be obtained for
32 portion of the building in which electrical wiring, lighting and/or watering devices that support
33 the cultivation, growing or harvesting of marihuana are located. That portion of the building

where energy usage and heat exceeds typical residential use, such as grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the Lansing fire department to insure compliance with the Michigan fire protection code;

(6) The premises shall be open for inspection upon probable cause and request by either building code officials, the fire department, or law enforcement officials to determine compliance with all applicable laws and rules;

(7) If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential levels between the hours of 11:00 p.m. and 7:00 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties or vehicles on adjacent right-of-ways;

(8) Exterior signage identifying medical marihuana home cultivation is prohibited;

(9) The cultivation, process, or use of medical marihuana which creates noise, dust, vibration, glare, fumes, noxious odors or electrical interference detectable to the normal senses from the exterior of the curtilage of the premises shall be prohibited; and

(10) Copies of the registry identification card for the qualifying patient must be maintained on premises during all times of operation.

1301.07 –LOCATION OF MEDICAL MARIHUANA FACILITIES AND PROVISIONING CENTERS.

(a) No Medical Marihuana facility or provisioning center shall be located within:

(1) 1,000 radial feet of real property comprising a public or private elementary, vocational, or secondary school; A child care organization required by the child care organization act, PA 116 of 1973, to be licensed or registered by the Michigan department of human services.

(b) Medical Marihuana facilities and provisioning center shall be limited to appropriate retail zoning districts as follows:

(1) The “F” and “F-1” Commercial, “E-2” Local Shopping, “G-2” Wholesale, “H” Light Industrial and “I” Heavy Industrial Districts, as long as there is no residential use on the parcel containing the facility or provisioning center.

1301.08 –LOCATIONS OF MEDICAL MARIHUANA HOME OCCUPATIONS.

(a) Medical Marihuana Home Occupations shall be limited to the following residential zoning districts:

(1) Zones “A”, “B”, “C”, “DM-1”, “DM-2”, “DM-3”, and “DM-4”

(b) Medical Marihuana Home Occupation is prohibited in any multi-family dwelling.

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2 **1301.09 –DENIAL AND REVOCATION**

3 (a) A license is valid only for the location identified on the license and cannot be transferred to another
4 location within the city without a new application. If a new application for a proposed license location
5 meets the standards identified in this chapter, licenses may transfer a license issued under this chapter
6 to a different location within the City as long as the transfer would conform with the other provisions of
7 this ordinance.

8 (b) A license does not prohibit prosecution by the federal government of its laws or prosecution by state
9 authorities for violations of the Act or other violations not protected by the Act.

10 (c) If an applicant or licensee fails to comply with this chapter or rules, if a licensee no longer meets the
11 eligibility requirements for a license under this ordinance, or if an applicant or licensee fails to provide
12 information requested by the City Clerk to assist in any investigation, inquiry, or administrative hearing,
13 the Clerk may deny, suspend, or revoke a license. The Clerk may suspend, revoke, or restrict a license
14 and require the removal of a licensee or an employee of a licensee for a violation of this chapter. The
15 Clerk may impose civil fines, in the amount to be set by City Council Resolution, for each violation of this
16 chapter, rules, or order of the City Clerk. In addition, a license may be suspended or revoked for any of
17 the following reasons:

18 (1) Any conviction for or guilty plea to a felony involving controlled substances or assaultive crimes
19 by a licensee or any stakeholder of the occurring: (a) prior to being issued a license; or (b) while
20 licensed under this chapter;

21 (2) Commission of fraud or misrepresentation or the making of a false statement by the licensee or
22 any stakeholder of the licensee while engaging in any activity for which this chapter requires a
23 license;

24 (3) The licensee's operation is determined by the City to have become a public nuisance;

25 (d) A license issued under this chapter may be revoked after an administrative hearing at which it is
26 determined that any grounds for revocation under Subsection (c) exist. Notice of the time and place of
27 the Hearing and the grounds for revocation must be given to the Licensee at least five days prior to the
28 date of the hearing, by first class mail to the address given on the license application or any address
29 provided pursuant to Section 1300.03(g).

30 (e) The City Clerk may designate a Special Hearing Officer to conduct investigative and contested case
31 hearings; issue subpoenas for the attendance of witnesses; issue subpoenas duces tecum for the
32 production of books, ledgers, records, memoranda, electronically retrievable data, and other pertinent
33 documents; and administer oaths and affirmations to witnesses as appropriate to the exercise and
34 discharge the powers and duties of the clerk under this chapter.

(f) Suspension or revocation of a license is not an exclusive remedy and nothing contained herein is intended to limit the city's ability to prosecute code violations that may have been the cause of the suspension or revocation or any other code violations not protected by the Act.

(g) Each day that a licensee shall conduct an operation, whether it be facility, provisioning center or home cultivation related, without a license or allow, operate, or assist in said unlicensed operation shall constitute a separate offense.

(h) If a licensee has ceased business operations for 60 consecutive days, the licensee shall return the license to the City Clerk. If the licensee demonstrates good cause and all required fees are paid, the Clerk may place the license in escrow for up to 1 year. To remove a license from escrow, the licensee must submit the Clerk with a written request and any other information required by rule.

1301.10 PENALTIES AND DISCIPLINE

(a) The city of Lansing may require an Applicant or Licensee to produce documents, records, or any other material pertinent to the investigation of an application or alleged violation of this chapter. Failure to provide the required material may be grounds for application denial, license revocation, or discipline.

(b) Any person in violation of any provision of this chapter shall be subject to a civil fine. Increased civil fines may be imposed for repeated violations of any requirements or provisions of this chapter. As used in this section "repeat offense" means a second or any subsequent infraction of the same requirement or provision committed by a person within any 12-month period and for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided in this chapter or any other ordinance for a Municipal Infraction, the increased schedule is as follows:

1. _____, plus costs the first infraction;

2. A fine of any offense which is a first repeat offense shall be not less than _____ dollars, plus costs.

3. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less than _____ dollars plus costs.

(c) All fines imposed under this chapter shall be paid within 45 days after the effective date of the order imposing the fine or as otherwise specified in the order. If the licensee fails to pay any and all fines within 45 days, the clerk may initiate revocation/suspension proceedings.

1301.11 -NO VESTED RIGHTS

A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this chapter or any amendment of this chapter.

1301.13 -SEVERABILITY

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1 If any clause, sentence, section, paragraph, or part of this chapter, or the application thereof to any
2 person, legal entity, or circumstance, shall be for any reason adjudged by a court of competent
3 jurisdiction to be invalid, the application of such provision to other persons, legal entities or
4 circumstances by such shall be confined in its operation to the part of the this chapter directly involved
5 in the case or controversy in which such judgment shall have been rendered and to the person, legal
6 entity or circumstances then and there involved. It is hereby declared to the legislative intent of this
7 body that the chapter would have been adopted had such provision had not been included in this
8 chapter.

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DRAFT



Date: May 19, 2016

To: Honorable Lansing City Council

From: Jamaine Dickens, DMC Strategies

RE: Proposed Medical Marihuana Ordinance/Drive-Thru Service Windows

The Michigan Medical Marihuana Act (MMMA), passed as a ballot initiative in 2008, indicates acceptance by the overwhelming majority of Michigan voters. The MMMA passed by a 2-1 margin in every county in the state Michigan. In Lansing, nearly three out of every four residents voted in favor of the MMMA, however, for some elected officials the idea of caregivers dispensing medical marihuana in a commercial facility is still a very polarizing issue.

The City of Lansing passed and codified an ordinance regulating this commercial use in 2011, which authorized drive-thru windows. On May 12, 2016, the City of Lansing passed a moratorium on licensing such facilities, even though the City has never implemented its existing framework. And now, the City is drafting a new ordinance to regulate medical marihuana caregiver centers.

In the current draft, Section 1301.05 (h), drive-thru windows are prohibited; however, it is our belief that drive-thru windows not only satisfy the needs of medical marijuana patients who suffer from debilitating illnesses and chronic pain, but also satisfies the concerns of those who oppose medical marihuana caregiver facilities as a whole.

As such, we ask that you reconsider your current position on drive-thru service windows, allowing them in industrially zoned areas only, for the following reasons:

1. **Drive-thru service makes patient care the top priority.** What is often forgotten in the debate concerning drive-thru windows at caregiver facilities is that the receiving patients have very serious medical conditions. Many patients have mobility issues; therefore, allowing drive-thru service windows offers immediate ADA compliance, which is federal law. At the same time, drive-thru service provides patients who suffer from debilitating illness the necessity and convenience of barrier-free access.

According to the MMMA, the following conditions have been identified for use of medical marihuana:

"Debilitating medical condition" means 1 or more of the following:

(1) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, nail patella, or the treatment of these conditions.

(2) A chronic or debilitating disease or medical condition or its treatment that produces 1 or more of the following: cachexia or wasting syndrome; severe and chronic pain; severe nausea; seizures, including but not limited to those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis."

2. **The MMMA recognizes medical marihuana as medicine.** Therefore, caregiver centers should be treated as a medical use with the same zoning and policy considerations as pharmacies, many of which dispense opiate or opioid medications such as Morphine, Codeine, Oxycodone using drive-thru windows. Opiates (naturally occurring) or opioids (synthetic) are the active ingredients in heroin, which is an ILLEGAL substance. Medical marihuana is a LEGAL medicine and should be treated as such, and caregiver facilities should be allowed to dispense medicine in the same manner as any pharmacy with a drive-thru.
3. **A drive-thru satisfies nuisance concerns.** Opponents of these facilities characterize them as a nuisance, with which we vehemently disagree. However, under general zoning principles, factors that create a nuisance can include loitering, excessive noise, parking issues, traffic and odors, which could never occur at a facility if patients don't have to exit their vehicle to obtain their medicine. In simple terms, those who oppose these facilities because of the potential nuisance should be in favor of drive-thru windows, if for no other reason than to eliminate the so-called nuisance. With a drive-thru window, the patient would quickly and efficiently purchase the needed medicine from the drive-thru and then leave the site.

4. **Drive-thru service follows the same laws walk-in service.** Instead of prohibiting drive-thru windows, the City of Lansing should impose operating conditions for drive-thru windows that explicitly state: (1) Before any transaction at a drive-thru window, a driver's license or state identification must be presented, along with a state-issued medical marihuana card; (2) All medicine dispensed from a drive-thru window is done so in a locked container for transport; (3) A "storing" lane or area shall be provided to allow patients and/or passengers to place the locked container in the trunk of the vehicle before exiting the property, unless it is an SUV, station wagon or pickup truck; (4) A sign directing patents to the "storing" area shall be posted; (5) Personnel may be on hand to assist immobile patients with placing the locked containers in their trunks as needed.

As your Honorable Body moves forward in deliberation over the new medical marihuana ordinance, we implore you not to forget about the sole purpose of the MMMA, which is to provide safe access to patients who critically need their medicine. Many of those patients need the convenience of drive-thru window service. Lastly, these patients are your residents, who are law-abiding, card-carrying, taxpaying citizens who have already suffered enough.

As such, we ask the drive-thru window services be allowed, in industrial and light industrial zoned areas, giving patients the convenient access they need in areas furthest removed from the general public.

I look forward to discussing these issues and others. If you have any questions, please do not hesitate to call me at 313-673-2667, or email me at jdickens@dmcstrategies.com.

cc: Honorable Virg Bernero
Lansing City Clerk
Mark Dotson, Deputy Corporation Counsel